

**REMARKS**

The present amendment is in response to the first Office Action, dated July 5, 2001, where the Examiner has rejected claims 1-68. After the present amendment, claims 2-6, 11-18, 21-31, 34-39, 43, 46, 49-53, 57-62 and 67 have been cancelled, claims 1, 7, 32, 44 and 66 have been amended, and new claims 69-84 have been added. Accordingly, claims 1, 7-10, 19-20, 32-33, 40-42, 44-45, 47-48, 54-56, 63-66 and 68-84 are pending in the application. Attached hereto are clean sheets including all amended and new claims. Reconsideration and allowance of pending claims 1, 7-10, 19-20, 32-33, 40-42, 44-45, 47-48, 54-56, 63-66 and 68-84 in view of the amendments and the following remarks are respectfully requested.

**A. Objection to Claim 25**

The Examiner has objected to claim 25 due to informalities. It is respectfully submitted that by this Amendment and Response, applicants have cancelled claim 25 and its dependent claims 26 and 27. Accordingly, the Examiner's objection has been rendered moot.

**B. Rejection of Claims 1, 6-7, 10-16, 18-29, 31-35, 38-42, 44-49, 52-56, 58 and 61-68 under 35 U.S.C. § 102(b)**

The Examiner has rejected claims 1, 6-7, 10-16, 18-29, 31-35, 38-42, 44-49, 52-56, 58 and 61-68 under 35 U.S.C. § 102(b) as being anticipated by Civanlar, et al. (EP 0741481 A2). Applicants respectfully disagree.

**a. Rejection of Claims 1, 6-7 and 10-18**

Applicants respectfully submit that claim 1, as revised, is not anticipated by Civanlar and is patentable over Civanlar. Claim 1, as revised, in part recites: "wherein the remote modem remains in the hold mode for no longer than a first time period, and wherein said first time period is communicated by the local modem to the remote modem." It is noted that Civanlar does not

remotely suggest or teach that the local modem communicates to the remote modem the hold period. In fact, Civanlar states that the length of the time to hold is specified by S10 register of the remote modem itself. Civanlar goes on to state that S10 register is set to a special value 255, so that the remote modem holds the telephone connection indefinitely. (See col. 9, lines 31-37.) Civanlar does not disclose, teach or suggest that the local modem (or the requesting modem) dictates the hold time. Accordingly, it is respectfully submitted that claim 1, as revised, is patentable over Civanlar.

Claim 6 has been cancelled and the Examiner's rejection with claim 6 has been rendered moot.

Further, applicants respectfully submit that claim 7 is not anticipated by Civanlar and is patentable over Civanlar. Claim 7 has been revised to be placed in an independent form and in part recites: "wherein the local modem uses a v.42 protocol to set up a secondary channel for signaling the remote modem regarding the hold mode." The Examiner states that "Civanlar teaches the local modem using V.42 standard protocol to set up a secondary channel for signaling the remote modem regarding the hold mode." Applicants respectfully disagree. Civanlar does not teach using the v.42 error-correction protocol for signaling the remote modem regarding the hold mode, but it simply teaches using the V.42 for its normal use, which is to provide error correction capability and prevent spurious data resulting from the interruption caused by the call waiting tone. In its pertinent part, Civanlar states:

The processing of a call waiting event is greatly enhanced if modem A 102 and modem B 104 are communicating using an error correction protocol such as V.42/HDLC. (Col. 6, lines 1-4.)

An alternative approach for a modem B 104 that is not equipped to implement HDLC is to retrain modem B 104 immediately after notification of call waiting event is provided to processor A 106. (Col. 10, lines 1-5.)

Accordingly, Civanlar does not even remotely suggest using the V.42 protocol to provide modem on hold signaling.

Claim 10 depends from claim 1 and for the same reasons stated in conjunction with claim 1 should be allowed.

Claims 11-18 have been cancelled and the Examiner's rejection with respect to those claims have been rendered moot.

**b. Rejection of Claims 19-20**

The Examiner has rejected claim 19 pointing to "col. 2, lines 27-55 and col. 6 line 8 through col. 8 line 12". However, applicants have not been able to locate any teachings or suggestions in Civanlar regarding "interacting with the protocol stack as if the processing circuit was operating in the first mode". (See claim 19.) In fact, Civanlar does not discuss higher protocol layers in a network environment at all. Civanlar is merely focused on the interactions between modem A 102 and modem B 104 and ignores the implications of modem on hold in the network environment. On the other hand, the present invention, in part, discloses:

Fig. 4 is an alternate exemplary embodiment of the communication system of Fig. 3 that employs keep alive functionality to maintain continuous data session. Specifically, the ISP modem 321 employs a keep alive function 323 which delivers "keep alive packets" to higher protocol whether or not the client modem 301 sends a hold request. (Page 18, lines 7-10.)

Particularly, there are several layers of protocol involved in the connection between a user's Internet browser, for example and an ISP, and these layers have to be "kept alive" while the client modem 301 relinquishes a link 331 for call waiting services or otherwise. During a data session, while the client modem 301 has relinquished the link 331, the higher protocol layer, for example, TCP/IP, may encounter a time out condition and terminate the data session. (Page 18, lines 11-15.)

To achieve a continuous data session, when caller ID is received, the bottom two layers namely, the physical and the data link layer, responsible for transmission, framing, and error control of the communications link

may be modified. In one embodiment, the keep alive functionality 323 within the ISP modem 321 transmits "keep alive" packet streams to the higher TCP/IP protocol layer after the modem signal is interrupted. This deceives the higher TCP/IP layers and prevents the session from terminating. The "keep alive" packet stream may be either data bits or control signals or both, and located within the client modem 301, the ISP modem 321 or both. (Page 18, lines 16-23.)

Claim 20 depends from claim 19 and should be allowed for the same reasons.

**c. Rejection of Claims 21-29 and 31**

Claims 21-29 and 31 have been cancelled and the Examiner's rejection with respect to those claims has been rendered moot.

**d. Rejection of Claims 32-35 and 38-42**

The Examiner has rejected claims 32-35 and 38-42 as being anticipated by Civanlar. Applicants respectfully disagree. Claims 34-35 and 38-39 have been cancelled and the Examiner's rejection with respect to those claims is rendered moot. However, claim 32, as revised, in part recites: "wherein a handset is in communication with said communication device, and wherein said attention signal is generated as a result of said handset going off-hook ..." In rejecting claim 34 (which has been cancelled by the present amendment), the Examiner states that "Civanlar teaches a handset in communicating with a third party call as a result of said handset going off-hook (col. 7 lines 36-47)." Applicants respectfully disagree. According to Civanlar, the hold request is generated in response to a call waiting signal, not the handset going off-hook and, in fact, the handset is merely used to answer the incoming call. In contrast, claim 32, as revised, states that the hold request is generated in response to the handset going off-hook.

Accordingly, applicants respectfully submit that claim 32 and its dependent claims 33 and 40-42 should be allowed.

**e. Rejection of Claims 44-49, 52-56, 58 and 62**

The Examiner has rejected claims 44-49, 52-56, 58 and 62 as being anticipated by Civanlar. Applicants respectfully disagree. Claims 46, 49, 52, 53, 58 and 62 have been cancelled and the Examiner's rejection with respect to those claims has been rendered moot. Claim 44, as revised, in part recites: "detecting said handset going off-hook; transmitting a hold request to said second device in response to said handset going off-hook". For the reasons discussed in conjunction with patentability of claim 32 above, it is respectfully that claim 44 and its dependent claims 45, 47, 48 and 54-56 should be allowed.

**f. Rejection of Claims 63-65**

The Examiner has rejected claims 63-65 as being anticipated by Civanlar. Applicants respectfully disagree. Civanlar does not teach placing a communication between a first device and a second device over a communication line on hold for a hold period, and switching the communication line from said first device to the third device, such that after expiration of the hold period, the second device communicates with the third device (as opposed to the first device) over said communication line. The Examiner's attention is directed to the following excerpt from the present application:

Additionally, the ISP modem 125 might send a hold request to the client modem 103. While the client modem 103 is on hold, the ISP 107 can change the routing of the ISP modem 125, substitute another ISP modem automatically (for example when ISP modem 125 is having problems or is not optional for the client modem 103), etc. This may all happen without ever relinquishing any telephone link. (Page 15, lines 11-15.)

It is respectfully submitted that Civanlar does not remotely teach or suggest "switching said communication line from said first device to said third device, such that after expiration of said period of time, said second device communicates with said third device over said communication line", as recited in claim 63.

Accordingly, it is respectfully submitted that claim 63 and its dependent claims 64-65 should be allowed.

**g. Rejection of Claims 66-68**

The Examiner has rejected claims 66-68 as being anticipated by Civanlar. Applicants respectfully disagree. Claim 67 has been cancelled and the Examiner's rejection with respect to claim 67 has been rendered moot. Claim 66, as revised, in part recites: "keeping said upper layer protocol alive by said second device during said hold period." As explained in conjunction with patentability of claim 19, Civanlar does not discuss higher protocol layers in a network environment at all, but Civanlar is merely focused on the interactions between modem A 102 and modem B 104 and ignores the implications of modem on hold in the network environment. Accordingly, it is respectfully submitted that for the reasons discussed in conjunction with claim 19, claim 66 and its dependent claim 68 should be allowed.

**C. Rejection of Claims 2-5, 43 and 57-59 under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 2-5, 43 and 57-59 under 35 U.S.C. § 103(a) as being unpatentable over Civanlar, et al. (EP 0741481 A2) in view of Cai, et al. (USPN 5,550,908). Applicants have cancelled claims 2-5, 43 and 57-59 by this amendment. Therefore, the Examiner's rejection of claims 2-5, 43 and 57-59 has been rendered moot.

**D. Rejection of Claims 8-9 under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 8-9 under 35 U.S.C. § 103(a) as being unpatentable over Civanlar, et al. (EP 0741481 A2) in view of Hamasaki (USPN 5,131,025). Applicants respectfully disagree. Claims 8-9 depend from claim 1, as amended. Accordingly, it is respectfully submitted that claims 8-9 are patentable at least for the same reasons stated in conjunction with claim 1, as amended.

**E. Rejection of Claims 17, 36-37 and 50-51 under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 17, 36-37 and 50-51 under 35 U.S.C. § 103(a) as being unpatentable over Civanlar, et al. (EP 0741481 A2). Applicants have cancelled claims 17, 36-37 and 50-51 by this amendment. Therefore, the Examiner's rejection of claims 17, 36-37 and 50-51 has been rendered moot.

**F. Rejection of Claim 30 under 35 U.S.C. § 103(a)**

The Examiner has rejected claim 30 under 35 U.S.C. § 103(a) as being unpatentable over Civanlar, et al. (EP 0741481 A2) in view of Benson (USPN 6,104,800). Applicants have cancelled claim 30 by this amendment and the Examiner's rejection of claim 30 has been rendered moot.

**G. Rejection of Claim 60 under 35 U.S.C. § 103(a)**

The Examiner has rejected claim 60 under 35 U.S.C. § 103(a) as being unpatentable over Civanlar, et al. (EP 0741481 A2) in view of Shachar, et al. (USPN 5,764,736). Applicants have cancelled claim 60 by this amendment and the Examiner's rejection of claim 60 has been rendered moot.

**H. New Claims 69-84**

By the present amendment, applicants have added new claims 69-84.

Claim 69 depends from claim 1, as amended, and should be allowable for the same reasons stated in conjunction with claim 1.

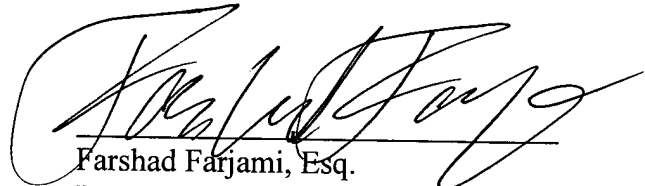
Claim 70 depends from claim 32, as amended, and should be allowable for the same reasons stated in conjunction with claim 32.

Independent claims 71, 73 and 79, and their respective dependent claims 72, 74-78 and 80-84 are also patentable over the cited references and should be allowed.

**I. Conclusion**

For all the foregoing reasons, an early allowance and issuance of claims 1, 7-10, 19-20, 32-33, 40-42, 44-45, 47-48, 54-56, 63-66 and 68-84 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;  
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